

REPORT ON EXAMINATION

OF THE

CLAVERACK COOPERATIVE INSURANCE COMPANY

AS OF

DECEMBER 31, 2003

DATE OF REPORT

NOVEMBER 22, 2004

EXAMINER

FE ROSALES, CFE

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STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

November 22, 2004

Honorable Howard Mills
Superintendent of Insurance
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 22217 dated May 5, 2004, attached hereto, I have made an examination into the condition and affairs of the Claverack Cooperative Insurance Company as of December 31, 2003 and submit the following report thereon.

The examination was conducted at the Company's home office located at 271 Roxbury Road, Hudson, New York 12534.

Wherever the designations "the Company" or "Claverack" appear herein without qualification, they should be understood to indicate the Claverack Cooperative Insurance Company.

Wherever the term "Department" appears herein without qualification, it should be understood to mean the New York Insurance Department.

1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 1998. This examination covered the five-year period from January 1, 1999 through December 31, 2003. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

The examination comprised a complete verification of assets and liabilities as of December 31, 2003, a review of income and disbursements deemed necessary to accomplish such verification and utilized, to the extent considered appropriate, work performed by the Company's independent certified public accountants. A review or audit was also made of the following items as called for in the Examiners Handbook of the National Association of Insurance Commissioners:

- History of Company
- Management and control
- Corporate records
- Fidelity bond and other insurance
- Territory and plan of operation
- Growth of Company
- Loss experience
- Reinsurance
- Accounts and records
- Financial statements

A review was also made to ascertain what action was taken by the Company with regard to comments and recommendations contained in the prior report on examination.

This report on examination is confined to financial statements and comments on those matters, which involve departures from laws, regulations or rules, or which are deemed to require explanation or description.

2. DESCRIPTION OF COMPANY

The Company was organized in 1857 to transact business as an assessment co-operative fire insurance company in the Town of Claverack, Columbia County, New York. In 1949, the territory was extended to include all of Columbia County. In 1957, a merger was effected between the Company and the Livingston Town Insurance Company, of Livingston, New York, with the Claverack Town Fire Insurance Company being the surviving corporation.

This Department issued a certificate on February 8, 1971, authorizing the Company to change its name from The Claverack Town Fire Insurance Company to Claverack Cooperative Insurance Company.

A. Management

Pursuant to the Company's charter and by-laws, management of the Company is vested in a board of directors consisting of eleven members. As of the examination date, the board of directors was comprised of ten members. It was noted that one director (Margaret Mullins) who was elected to the board in July 2002 resigned prior to the Company's meeting in December 2003. It was further noted that the Board elected a new director (Kristin Plaia) at its July 13, 2004 meeting to fill the unexpired term of the former director who resigned. At least four board meetings were held each year for the period under examination, thereby complying with Section 6624(b) of the New York Insurance Law (NYIL).

The directors as of December 31, 2003 were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Katherine Buckley Hudson, New York	Assistant Secretary & Treasurer of the Company
Sidney Byron Millerton, New York	Secretary & Treasurer of Farmers Mutual Insurance Company of Milan, Pine Plains & Stanford; Insurance Agent
Elizabeth Dolan Hudson, New York	Teacher
Ann Enright Hyde Park, New York	Retired
Benjamin Funk Hudson, New York	Truck Distributor
John Hess Hudson, New York	Retired; Vice President of the Company
Maureen Hess Hudson, New York	Secretary & Treasurer of the Company
Floyd Merrifield, Jr. Hudson, New York	Farmer
Robert Monahan Rhinebeck, New York	Consultant
Martin Schroeder Hudson, New York	Retired

The minutes of all meetings of the board of directors held during the examination period were reviewed. Except for one director (Benjamin Funk) who did not attend most of the meetings for the last two years, the meetings were generally well attended.

It was noted that the above-named director had attended exactly 50% of the meetings he was eligible to attend for the five-year examination period as he failed to attend any of the four meetings in

2003 and attended only one of the four meetings in 2002. It was also noted that he did not attend the two meetings he was eligible to attend in 2004.

Members of the board have a fiduciary responsibility and must evince an ongoing interest in the affairs of the Company. It is essential that board members attend meetings consistently and set forth their views on relevant matters so that appropriate decisions may be reached by the board. Individuals who fail to attend at least one-half of the board's meetings do not fulfill such criteria.

It is recommended that board members who are unable or unwilling to attend meetings consistently should resign or be replaced.

It is noted that the above-indicated director resigned in July 2004 after this examination questioned Mr. Funk's attendance record.

The review of the minutes also revealed that the Board consistently approved the Company's investment transactions complying with Section 1411(a) of the New York Insurance Law.

It is also noted in the minutes that the board approved the salaries of officers and employees of the Company. It is further noted during the review of expenses that three directors who are also officers of the Company receive salaries in lieu of directors' fees. The total salaries of the three directors/officers are approximately ten percent of the Company's total payroll and approximately two percent of surplus. Considering the minimal duties of the above officers/directors which consists of occasionally signing checks, it appears that their salaries are somewhat excessive compared to the \$175 board fees paid per meeting in 2003.

Section 717(a) of the New York Business Corporation Law states, in part, that "A director shall perform his duties as a director . . . in good faith and with that degree of care which an ordinarily prudent person in a like position would under similar circumstances . . ."

In view of the above, it is recommended that, henceforth, the directors of Claverack Cooperative Insurance Company remain mindful of their fiduciary responsibilities to the Company and its

policyholders, as set forth in Section 717 of the New York Business Corporation Law. In addition, the policyholders should replace any director of the Company who cannot or does not fulfill his/her duties in good faith and with that degree of care which an ordinarily prudent person in a like position would use under similar circumstances.

As of December 31, 2003, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Floyd Merrifield, Jr.	President
Maureen Hess	Secretary / Treasurer
Elizabeth Dolan	Vice President
John Hess	Second Vice President
Katherine Buckley	Assistant Secretary / Treasurer

B. Territory and Plan of Operation

As of December 31, 2003, the Company was licensed to write business within all counties of the State of New York excluding the counties of New York, Kings, Queens, Bronx and Richmond.

The Company writes only in New York State.

As of the examination date, the Company was authorized to transact the kinds of insurance as defined in the following numbered paragraphs of Section 1113(a) of the New York Insurance Law:

<u>Paragraph</u>	<u>Line of Business</u>
4	Fire
5	Miscellaneous property damage
6	Water damage
7	Burglary and theft
8	Glass
12	Collision
13	Personal injury liability
14	Property damage liability
15	Workers' compensation and employers' liability (excluding workers' compensation)
19	Motor vehicle and aircraft physical damage (excluding aircraft physical damage)
20	Marine and inland marine (inland marine only)

The Company was also licensed as of December 31, 2003, to accept and cede reinsurance as provided in Section 6606 of the Insurance Law of the State of New York.

The following schedule shows the direct premiums written by the Company in New York for the period under examination:

<u>Calendar Year</u>	<u>NYS Direct Written Premiums</u>
1999	\$2,268,897
2000	2,158,801
2001	2,188,734
2002	2,386,116
2003	2,517,022

Based on the lines of business for which the Company is licensed and the Company's current capital structure, and pursuant to the requirements of Articles 13 and 66 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$100,000.

The Company concentrates on writing homeowners and commercial multi-peril risks through independent agents.

C. Reinsurance

Assumed

The Company does not assume any reinsurance business.

Ceded

The Schedule F data as contained in the Company's filed annual statement was found to accurately reflect its reinsurance transactions.

The examiner reviewed the ceded reinsurance contracts in effect at December 31, 2003. It is noted that the Company failed to obtain fully executed contracts / addendums for the following reinsurance arrangements:

- General Excess of Loss – Renewal effective January 1, 2003
- First Catastrophe Excess of Loss effective January 1, 2003 to December 31, 2003
- Second Catastrophe Excess of Loss effective January 1, 2003 to December 31, 2003
- Third Catastrophe Excess of Loss effective January 1, 2003 to December 31, 2003

The Company only obtained the reinsurance underwriting memorandum for each of these contracts. As a result, the insolvency clause for these contracts could not be reviewed upon examination for compliance with the requirements of Section 1308 of the New York Insurance Law.

Further, in accordance with the National Association of Insurance Commissioners (“NAIC”) Accounting Practices and Procedures Manual, Statement of Statutory Accounting Principles (SSAP) No 62, paragraph 23 “...if an agreement entered into, renewed or amended on or after January 1, 1994 has not been finalized, reduced to a written form and signed by the parties within nine months after the commencement of the policy period covered by the reinsurance arrangement, then the arrangement is presumed to be retroactive and shall be accounted for as a retroactive reinsurance agreement.”

It is recommended that the Company ensure that all reinsurance agreements to which it is a party are finalized, reduced to a written form and signed by the parties within nine months after commencement of the policy period covered by the arrangement. Future reinsurance arrangements that are not finalized within nine months after the commencement of the policy period covered by the arrangement should be accounted for as a retroactive reinsurance agreement in accordance with SSAP No. 62, paragraph 23.

The Company had the following ceded reinsurance program in effect at December 31, 2003:

<u>Type of treaty</u>	<u>Cession</u>
Property Excess of Loss	\$320,000 in excess of \$30,000 net loss, per risk, limit
2 Layers	\$210,000 per occurrence/in the aggregate.
100% Authorized	

Casualty Excess of Loss 3 Layers 100% Authorized	\$1,005,000 in excess of \$20,000 net loss, per occurrence, limit \$500,000 any one loss occurrence.
Property Catastrophe Excess of Loss 3 Layers 100% Authorized	\$1,425,000 in excess of \$75,000, net loss, per occurrence.
Aggregate Excess of Loss 100% Authorized	Maximum of 90% of \$750,000 in excess of 75% loss ratio during the agreement year.

The Company's retention increased from \$14,000, \$10,000 and \$50,000 for property, casualty and property catastrophe, respectively, from the prior examination period. In addition, the reinsurer's limits changed from \$336,000, \$990,000 and \$1,450,000 for property, casualty and property catastrophe, respectively, from the prior examination period.

In addition to its treaty reinsurance program, the Company also obtained facultative reinsurance coverage with an authorized company for property and casualty business, as follows:

Property (pro-rata cessions)	Ten times its net retention per risk, subject to a maximum cession of \$500,000 per risk and minimum retention of \$10,000 per risk.
Casualty	\$500,000 per occurrence with a net retention of \$500,000 per occurrence.

It is noted that the contracts for the above reinsurance with HartRe Company (for and on behalf of The Hartford Fire Insurance Company) were cancelled effective December 31, 2003 on a cut-off basis.

Effective January 1, 2004 the Company entered into a similar reinsurance program as indicated above, with the exception of the facultative program, with an authorized company, Endurance Reinsurance Corporation of America. It was noted on examination however, that the First, Second, Third and Fourth Catastrophe Excess of Loss contracts name Endurance Specialty Insurance Limited as the

reinsurer. Endurance Specialty Insurance Limited is neither a licensed nor accredited reinsurer in New York and not permitted by Section 6606(a)(2) of the New York Insurance Law.

It is recommended that the Company comply with Section 6606(a)(2) of the New York Insurance and replace Endurance Specialty Insurance Limited with a licensed or accredited reinsurer.

D. Holding Company System

As of December 31, 2003, the Company was not a member of any holding company system.

E. Abandoned Property Law

Section 1316 of the New York State Abandoned Property Law provides that amounts payable to a resident of this state from a policy of insurance, if unclaimed for three years, shall be deemed to be abandoned property. Such abandoned property shall be reported to the comptroller on or before the first day of April each year. Such filing is required of all insurers regardless of whether or not they have any abandoned property to report.

The Company's preliminary abandoned property reports for the period of this examination were all filed on a timely basis pursuant to the provisions of Section 1316 of the New York State Abandoned Property Law. However, it is noted that except for the filing made in 2000 which was filed Sept. 6th, the Company did not file the final report and pay over the unclaimed funds to the Office of the State Comptroller before September 10th of 2001, 2002 and 2003. Section 1316(4) of the NYS Abandoned Property Law states that "such abandoned property shall be paid or delivered to the comptroller within the first ten days of September of each year".

It is recommended that the Company comply with Section 1316(4) of the NYS Abandoned Property Law and remit the final payment for the unclaimed funds within the first ten days of September of each year.

F. Significant Operating Ratios

The following ratios have been computed as of December 31, 2003, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	92%
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	56%
Premiums in course of collection to surplus as regards policyholders	2%

All of the above ratios fall within the benchmark ranges set forth in the Insurance Regulatory Information System of the National Association of Insurance Commissioners.

The underwriting ratios presented below are on an earned/incurred basis and encompass the five-year period covered by this examination:

	<u>Amounts</u>	<u>Ratios</u>
Losses and loss adjustment expenses incurred	\$3,201,093	57.55%
Other underwriting expenses incurred	2,181,075	39.22%
Net underwriting gain	<u>179,549</u>	<u>3.23%</u>
Premiums earned	<u>\$5,561,717</u>	<u>100.00%</u>

Management Expense Ratio

The examiner's calculation of management expense ratio revealed that the Company was not in compliance with Section 6613 of the NYIL (Limitation of Expenses), for 2002 and 2003. The Company's ratios were 45.0% and 44.8%, respectively.

Section 6613(a) states in part that "The expenses of management of any co-operative property/casualty insurance company shall not exceed in any one calendar year forty-two and one-half percent of its net premiums written for such year".

It is recommended that the Company comply with Section 6613 of the NYIL henceforth and make efforts to bring down its management expenses within the limits allowed by this specific section.

G. Accounts and Records

1. CPA Contract

The Company retains Buffamante, Whipple & Buttafaro, CPAs, P.C. (BWB) as its independent certified public accountant for audit year 2003. For the years 1999 through 2002, the Company retained Tice, Brunell & Baker, CPAs, P.C. The review of Claverack's contract with BWB revealed that the contract does not fully comply with the requirements specified in Section 89.2 of Regulation 118 of the New York Codes Rules and Regulations (as amended effective May 9, 2001).

Section 89.2 states that:

"Every insurer subject to this Part shall retain an independent Certified Public Accountant (CPA) who agrees by written contract with such insurer to comply with the provisions of section 307(b) of the Insurance Law, this Part and the Code of Professional Conduct adopted by the American Institute of Certified Public Accountants (AICPA). Such contract must specify that:

(a) on or before May 31st, the CPA shall provide an audited financial statement of such insurer and of any subsidiary required by section 307(b)(1) of the Insurance Law together with an opinion on the financial statements of such insurer and any such subsidiary for the prior calendar year and an evaluation of the insurer's and any such subsidiary's accounting procedures and internal control systems as are necessary to the furnishing of the opinion;

(b) any determination by the CPA that the insurer has materially misstated its financial condition as reported to the superintendent or that the insurer does not meet minimum capital or surplus to policyholder requirements set forth in the Insurance Law shall be

given by the CPA, in writing, to the superintendent within 15 calendar days following such determination; and

(c) the workpapers and any communications between the CPA and the insurer relating to the audit of the insurer shall be made available for review by the superintendent at the offices of the insurer, at the Insurance Department or at any other reasonable place designated by the superintendent. The CPA must retain for review such workpapers and communications in accordance with the provisions of Part 243 of this Title (Regulation 152). More specifically, such workpapers and communications must be retained by the CPA for the period specified in sections 243.2(b)(7) and (c) of this Title. For the purposes of this subdivision, the workpapers and communications shall be deemed to have been created on the date the filing required by section 89.2(a) of this Part was submitted to the superintendent.”

It is recommended that the Company ensure that the contract with its CPA complies with the requirements of Department Regulation 118.

During the course of the examination, the contract was amended to show compliance with above-indicated regulation.

2. Incorrect acquisition dates used

The examiner’s review of a sample of trade advices for purchases & sales of securities revealed that securities transactions were recorded on the settlement date.

In accordance with Statement of Statutory Accounting Principles (“SSAP”) Number 26, paragraph 4, SSAP Number 30, paragraph 5, and SSAP Number 32, paragraph 10, bonds, common stocks and preferred stocks, respectively, shall be recorded on the trade date, not the settlement date.

In view of the above, it is recommended that securities transactions be recorded in the annual statement on their trade date in accordance with the above-indicated SSAP’s.

3. Contingent Commission Agreement

Claverack pays its agents contingent commissions based on their performance. However, there is neither a formal agreement in place nor written disclosure relative to awarding of these contingent commissions. The Company has also advised that there is no set calculation of the contingent commission. The examiner was provided with the calculation utilized for 2003.

It is recommended that the Company formalize its contingency commission program with its agents, either by written agreement or disclosure, as this is a good business practice.

4. Incorrect transaction codes

The verification of negative loss payments for 2003 revealed that the Company used incorrect transaction codes for a few salvage & subrogation transactions (code 15). Instead of code 15, codes 11 (partial payment) or 12 (full payment) or 19 (return claim check) were used. Despite the fact there is no effect on net payments, correct transaction codes should always be used.

It is recommended that the Company use correct transactions codes at all times when entering loss transactions in the system.

5. Classification of annual statement lines

The review of accounts that comprised Other Expenses revealed that employees' withholdings (state tax and unemployment contributions) are included in Other Expenses. In addition, premium fee payable is included on this account.

In accordance with the NAIC annual statement instructions, employees' withholdings (state tax and unemployment contributions) should be included on Line 14 - Amounts withheld for account of others. In addition, premium fee payable should be included on Line 6 - Taxes, licenses and fees.

It was also noted that the Company included in Advance Premiums account premium receipts totaling \$8,535 for policies with effective dates of 12/31/03 and prior. These receipts were for policies that have not been processed at year-end 2003. These should have been included in the annual statement line 15 - Items and Remittances not allocated.

It is recommended that in future annual statements filed with the Insurance Department, the Company classify accounts correctly to the proper annual statement lines in accordance with the NAIC annual statement instructions.

6. Electronic storage of loss and premium data

It was noted during the examination that the Accounts Receivable (AR) Open data file could not be tied to the year-end balance as shown in AR066 (Outstanding Receivable report). The Company has indicated that payments posted subsequent to the January 2, 2004 run date of the AR066 report reduce this AR Open file.

It was also noted that the Company's 'loss master' file does not contain pertinent information such as report dates and claim status. This information is contained in the 'loss header' file. However, the program that extracts 'loss header' file information selects records based on the 'date of loss' falling within the date range selected. The extract of 'loss master' information selects records based on the 'transaction date' falling within the date range selected. Since Claverack did not run the SF130 program at year end and backup the files, information concerning claim status will not necessarily relate to the actual claim status as of year-end. Instead, the claim status as of the run date will show.

Section 6611(a)(1) of the New York Insurance Law provides that every co-operative property/casualty insurance company must keep records in such a manner as will facilitate the preparation and verification of its annual statements. As noted above, the Accounts Receivable Open data file cannot be tied to the year-end balance and the information concerning claim status from the SPF130 program provided during this examination may not necessarily relate to the actual claim status at year-end.

In view of the above, it is recommended that the Company comply with Section 6611(a)(1) of the Insurance Law and henceforth retain an electronic file of accounts receivables and losses at each year-end in order that future verification of the annual statement can be facilitated.

7. Rent of Company's Office Space

It was noted that the Company has no lease agreement with its landlord (John Hess) for the office space being occupied. As a good business practice, a lease agreement should be entered into in order to clearly indicate which expenses relative to the maintenance of the building occupied by the Company are the responsibilities of the tenant and / or the landlord.

In view of the above, it is recommended that the Company enter into a lease agreement with its landlord as this indicates a good business practice.

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as determined by this examination as of December 31, 2003 and as reported by the Company:

<u>Assets</u>	<u>Examination</u>		<u>Company</u>		<u>Surplus Increase (Decrease)</u>
	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>	<u>Net Admitted Assets</u>	
Bonds	\$654,074	\$0	\$654,074	\$654,074	\$0
Preferred stocks	59,425	0	59,425	59,425	0
Common stocks	96,285	0	96,285	96,285	0
Cash, cash equivalents and short-term investments	<u>1,763,288</u>	<u>0</u>	<u>1,763,288</u>	<u>1,763,288</u>	0
Subtotals, cash and invested assets	<u>\$2,573,072</u>	<u>\$0</u>	<u>\$2,573,072</u>	<u>\$2,573,072</u>	<u>\$0</u>
Investment income due and accrued	14,121	0	14,121	14,121	0
Uncollected premiums and agents' balances in the course of collection	24,767	2,430	22,337	22,337	0
Deferred premiums, agents' balances and installments booked but deferred and not yet due	367,481	0	367,481	367,481	0
Amounts recoverable from reinsurers	131,110	0	131,110	131,110	0
Current federal and foreign income tax recoverable and interest thereon	13,820	0	13,820	13,820	0
Net deferred tax asset	85,863	21,534	64,329	64,329	0
Furniture and equipment, including health care delivery assets	15,879	15,879	0	0	0
Totals	<u>\$3,226,113</u>	<u>\$39,843</u>	<u>\$3,186,270</u>	<u>\$3,186,270</u>	<u>\$0</u>

<u>Liabilities, surplus and other funds</u>	<u>Examination</u>	<u>Company</u>	<u>Increase (Decrease)</u>
Losses and Loss adjustment expenses	\$631,982	\$631,982	\$0
Commissions payable, contingent commissions and other similar Charges	118,693	219,984	101,291
Other expenses (excluding taxes, licenses and fees)	15,251	15,251	0
Unearned premiums	790,625	790,625	0
Advance premium	51,904	51,904	0
Ceded reinsurance premiums payable (net of ceding commissions)	167,906	66,615	(101,291)
Aggregate write-ins for liabilities			
SSAP #8 Pension	51,982	51,982	0
Total liabilities excluding protected cell liabilities	\$1,828,343	\$1,828,343	\$0
Protected cell liabilities	0	0	\$0
Total liabilities	<u>\$1,828,343</u>	<u>\$1,828,343</u>	<u>\$0</u>
Aggregate write-ins for special surplus funds	100,000	100,000	0
Unassigned funds	1,257,927	1,257,927	
Surplus as regards policyholders	<u>\$1,357,927</u>	<u>\$1,357,927</u>	<u>\$0</u>
Totals	<u>\$3,186,270</u>	<u>\$3,186,270</u>	

Note: The Internal Revenue Service did not audit the Company's Federal Income Tax returns during the period under examination. There are no audits currently in progress. The examiner is unaware of any potential exposure of the Company to any further tax assessment and no liability has been established herein relative to such contingency.

B. Underwriting and Investment Exhibit

Surplus as regards policyholders increased by \$578,038 during the five-year examination period

January 1, 1999 through December 31, 2003, detailed as follows:

Underwriting Income

Premiums earned		\$5,561,717
Deductions:		
Losses and Loss adjustment expenses incurred	\$3,201,093	
Other underwriting expenses incurred	2,181,075	
Total underwriting deductions		<u>5,382,168</u>
Net underwriting gain or (loss)		\$179,549

Investment Income

Net investment income earned	\$422,869	
Net realized capital gain	<u>1,249</u>	
Net investment gain or (loss)		<u>\$424,118</u>

Other Income

Net gain or (loss) from agents' or premium balances charged off	(\$13,871)	
Finance and service charges not included in premiums	<u>234,674</u>	
Total other income		<u>\$220,803</u>
Net income before dividends to policyholders and before federal And foreign income taxes		<u>\$824,470</u>
Dividends to policyholders		<u>0</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$824,470
Federal and foreign income taxes incurred		<u>221,100</u>
Net Income		<u>\$603,370</u>

Surplus as regards policyholders per report on examination as of December 31, 1998			\$779,889
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$603,370		
Net unrealized capital gains or (losses)	883		
Change in net unrealized foreign exchange capital gain (loss)	18,967		
Change in net deferred income tax	91,349		
Change in nonadmitted assets		19,075	
Change in excess of statutory reserves over statement Reserves	1,400		
Cumulative effect of changes in accounting principles		11,062	
SSAP Calculation		14,171	
Prior period adjustments	<u>0</u>	<u>93,623</u>	
	<u>\$715,969</u>	<u>\$137,931</u>	
Net increase (decrease) in surplus			<u>\$578,038</u>
Surplus as regards policyholders per report on examination as of December 31, 2003			<u>\$1,357,927</u>

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$631,982 is the same as reported by the Company as of December 31, 2003. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Company's internal records and in its filed annual statements.

In accordance with annual statement instructions, the Company is required to provide claim count data for claims reported, claims outstanding, and claims closed with payment in Schedule P of its filed annual statement. During the review of losses, data anomalies were noted in the claim count data reported in Schedule P of Claverack's filed 2003 annual statement.

The data irregularities for the number of claims reported - direct & assumed in the Company's Schedule P for the year ended December 31, 2003 for Homeowners / Farmowners & CMP businesses were noted. For certain years (1996 through 2001) the cumulative number of claims reported decreased from years end 1997 to 1998, 1998 to 1999, 1999 to 2000, 2000 to 2001 and 2001 to 2002.

It is recommended that the Company provide accurate claim count data and that the Schedule P be accurately completed in all future statements filed with the Department.

5. CONTINGENT COMMISSIONS

The examination liability of \$118,693 is \$101,291 less than the balance of \$219,984 reported by the Company as of the examination date. The examination change is the result of the Company booking \$101,291 return ceding commissions to this account instead of the account Ceded reinsurance balances payable. The return ceding commission was the result of recording a 30% ceding commission for underwriting year 2002 and part of 2003 instead of 20%. Thus, the \$101,291 is payable to its reinsurer, Hart Re and will be reclassified to Ceded reinsurance balances payable account. (See also Item 6 below.)

It is recommended that the Company correctly classify annual statement accounts in accordance with the NAIC Annual Statement Instructions. (See also recommendation in section G.5.)

6. CEDED REINSURANCE BALANCES PAYABLE

The examination liability of \$167,906 is \$101,291 more than the \$66,615 balance reported by the Company as of the examination date. As indicated in Item 5 above, the examination change is a reclassification from the Contingent commissions account. The \$101,291 relates to return commissions to Claverack's reinsurer, HartRe.

7. MARKET CONDUCT ACTIVITIES

In the course of this examination, a review was made of the manner in which the Company conducts its business and fulfills its contractual obligations to policyholders and claimants. The review was general in nature and is not to be construed to encompass the more precise scope of a market conduct investigation.

The general review was directed at practices of the Company in the following areas:

- A. Sales and advertising
- B. Underwriting
- C. Rating
- D. Claims and complaint handling

The following were noted:

During the review of the Company's complaint log for compliance with the requirements of Circular Letter No. 11 (1978), the following columns were found to be missing:

1. The date the complaint was received in-house.
2. The New York State Insurance Department (NYSID) file number.
3. The person in the company with whom the complainant has been dealing.
4. The date of internal referral.
5. Chronology of further contacts with the NYSID.
6. Remarks about internal remedial action taken as a result of the investigation.

In view of the above, it is recommended that the Company fully comply with the requirements of Circular Letter No. 11 (1978) and going forward maintain a complaint log that encompasses the eleven subject matters required in this circular letter.

The Company has indicated that the register has been redesigned for 2004 and forward to fully comply with CL 1978-11.

8. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination contained three recommendations as follows (page numbers refer to the prior report):

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A. It was recommended that in the future the Company adhere to the 10% investment limitation prescribed by section 1409 of the Insurance Law.</p> <p>The Company has complied with this recommendation.</p>	12
<p>B. It was recommended that the Company conducts an analysis of the total cost associated with the maintenance of the building occupied by the Company and allocate costs among occupants fairly and equitably. In addition, the Company should maintain data relative to area office rentals to justify the allocated rental expense.</p>	13

The Company has not complied with this recommendation during the examination period, but has subsequently complied during the course of the examination. However, a new comment relative to the rental of the building occupied by the Company is included in this report. (Refer to Item 9.E.vii of this report)

- C. It was recommended that the Company continue efforts to establish procedures that will facilitate the reconciliation of the detail accounts of each agent's outstanding balance to the Company's general ledger in order to support the asset amount reported in its financial statement. 13

The Company has complied with this recommendation.

9. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u>	
i. It is recommended that board members who are unable or unwilling to attend meetings consistently should resign or be replaced.	5
ii. It is recommended that, henceforth, the directors of Claverack Cooperative Insurance Company remain mindful of their fiduciary responsibilities to the Company and its policyholders, as set forth in Section 717 of the New York Business Corporation Law. In addition, the policyholders should replace any director of the Company who cannot or does not fulfill his/her duties in good faith and with that degree of care which an ordinarily prudent person in a like position would use under similar circumstances.	5-6
B. <u>Reinsurance</u>	
i. The Company only obtained the reinsurance underwriting memorandum for certain ceded reinsurance contracts to which it is a party. As a result, the insolvency clause for these contracts could not be reviewed upon examination for compliance with the requirements of Section 1308 of the New York Insurance Law.	8
ii. It is recommended that the Company ensure that all reinsurance agreements to which it is a party are finalized, reduced to a written form and signed by the parties within nine months after commencement of the policy period covered by the arrangement. Future arrangements that are not finalized within nine months of the commencement of the policy period covered by the arrangement should be accounted for as a retroactive reinsurance agreement in accordance with SSAP No. 62, paragraph 23.	8
iii. It is recommended that the Company comply with Section 6606(a)(2) of the New York Insurance Law and replace Endurance Specialty Insurance Limited with a licensed or accredited reinsurer.	9-10
C. <u>Abandoned Property</u>	
It is recommended that the Company comply with Section 1316(4) of the NYS Abandoned Property Law and remit the final payment for the unclaimed funds within the first ten days of	10-11

September of each year.

D.	<u>Significant Operating Ratios</u>	
	<u>Management Ratio</u>	11-12
	It is recommended that the Company comply with Section 6613 of the NYIL henceforth and make efforts to bring down its management expenses within the limits allowed by this specific section.	
E.	<u>Accounts and Records</u>	
	i. It is recommended that the Company ensure that the contract with its CPA complies with the requirements of Department Regulation 118.	12-13
	During the course of the examination, the contract was amended to show compliance with above-indicated regulation.	
	ii. It is recommended that securities transactions be recorded in the annual statement on their trade date in accordance with SSAP numbers 26, 30 & 32.	13
	iii. It is recommended that the Company formalize its' contingent commission program with its' agents, either by written agreement or disclosure, as this is a good business practice.	13-14
	iv. It is recommended that the Company use correct transactions codes at all times when entering loss transactions in the system.	14-15
	v. It is recommended that in future annual statements filed with the Insurance Department, the Company classify accounts correctly to the proper annual statement lines in accordance with the NAIC annual statement instructions.	14
	vi. It is recommended that the Company comply with Section 6611(a)(1) of the Insurance Law and henceforth the Company retain an electronic file of accounts receivable and losses at each year-end in order that future verification of the annual statement can be facilitated.	15
	vii. It is recommended that the Company enter into a lease agreement with its landlord as this indicates a good business practice.	16
F.	<u>Loss and loss adjustment expenses</u>	
	It is recommended that the Company provide accurate claim count data and that the Schedule P be accurately completed in all future statements filed with the Department.	
		21

G. Market conduct activities

It is recommended that the Company fully comply with the requirements of Circular Letter 1978-11 and going forward maintain a complaint log that encompasses the eleven subject matters required in this circular letter.

22-23

The Company has indicated that the register has been redesigned for 2004 and forward to fully comply with CL 1978-11.

Respectfully submitted,

Fe Rosales, CFE
Senior Insurance Examiner

STATE OF NEW YORK)
)SS:
)
COUNTY OF NEW YORK)

Fe Rosales, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

Fe Rosales

Subscribed and sworn to before me
this _____ day of _____, 2005.

Appointment No 22217

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, GREGORY V. SERIO , Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

Fe Rosales

as proper person to examine into the affairs of the

Claverack Co-operative Insurance Company

and to make a report to me in writing of the condition of the said

Company

with such other information as he shall deem requisite.

In Witness Whereof, I have hereunto subscribed by the name and affixed the official Seal of this Department, at the City of Albany,

this 5th day of May-2004



A handwritten signature in black ink, appearing to read "Gregory V. Serio", written over a horizontal line.

GREGORY V. SERIO
Superintendent of Insurance